

Objection to Claim 2

At page 2 of the outstanding Office Action, the Examiner has objected to claim 2 for depending upon nonelected claim 1. Applicants respectfully traverse and submit that in the above amendments, this objection is overcome.

Sequence Listing

The Examiner has requested that Applicants assign sequence identifiers to any nucleic acid sequence of nine or more bases. Applicants respectfully traverse. It appears as though the Examiner has not taken into consideration the Sequence Listing submission of July 26, 1999. If the Examiner has not received this Sequence Listing submission, Applicants respectfully request that the Examiner contact the Applicants in order to clarify this matter.

Issues Under 35 U.S.C. § 112, first paragraph

The Examiner has rejected claims 2 and 5-13 under 35 U.S.C. § 112, first paragraph, for the reasons recited at pages 3 and 4 of the outstanding Office Action. Applicants respectfully traverse.

The Examiner asserts that the present specification does not describe a gene encoding a protein comprising an amino acid sequence represented by SEQ ID NO.: 1 (amended to SEQ ID NO.: 2 in the July 26, 1999 Sequence Listing submission) with a single

or plural amino acid deleted, replaced or added. Applicants respectfully submit that amended claim 2 no longer recites a sequence wherein a single or plural amino acid is deleted, replaced or added. Accordingly, this rejection is overcome.

At page 4 of the outstanding Office Action, the Examiner has rejected claims 2-10 under 35 U.S.C. § 112, first paragraph.

In particular, the Examiner asserts that the present specification describes nucleotide sequences of SEQ ID NO.: 3 and 4 which encode the amino acid sequences of SEQ ID NO.: 1 and 2, however, does allegedly describe other sequences encoding amino acid sequences with a single or plural amino acid sequence deleted, replaced or added and having the nicotianamine aminotransferase activity. Applicants respectfully traverse. In particular, Applicants make note that the above amendments render this rejection moot. Withdrawal thereof is respectfully requested.

Lastly, the Examiner has rejected claims 11-13 under 35 U.S.C. § 112, first paragraph for the reasons recited at pages 5-7 of the outstanding Office Action. The Examiner again asserts that the present specification does not enable a process for enhancing iron absorbing ability of a host cell that is transformed by a nucleotide sequence of an amino acid sequence having a single or plural amino acid deleted, replaced or added and having a nicotianamine aminotransferase activity. However, Applicants again point out that the above claims no longer

encompass an amino acid sequence wherein a single or plural amino acid is deleted, replaced or added. Accordingly, this rejection is overcome.

Issues Under 35 U.S.C. § 112, second paragraph

The Examiner has rejected claims 2, 3-10 and 13 under 35 U.S.C. § 112, second paragraph. In particular, the Examiner asserts that the recitation of "deleted, replaced or added" is indefinite. Applicants respectfully transfer and submit that this language has been canceled from the claims. Accordingly, this rejection is overcome.

Priority Document

On page 1 of the outstanding Office Action under the heading "Priority Under 35 U.S.C. § 119", the Examiner has acknowledged that the foreign priority document has been received. However, the Examiner has further written "No translation was sent. Please send translated copy."

Applicants respectfully submit that a translation of the priority document is not required at the present time. Specifically, on April 20, 1998, Applicants submitted a certified copy of the priority document as required by 35 U.S.C. § 119(b). However, Applicants do not believe that an English language translation of the priority document is necessary unless deemed necessary by the Commissioner.

In view of the above remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

If the Examiner has any questions or comments with respect to the above issues, please contact Craig A. McRobbie, Registration No. 42,874, at the offices of BIRCH, STEWART, KOLASCH & BIRCH, LLP.

Pursuant to the provisions of 37 C.F.R. § 1.17 and 1.136(a), Applicants hereby petition for an extension of three (3) months to April 14, 2000 for the period in which to file a response to the outstanding Office Action. The required fee of \$870.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: Craig Robbie #42,874
for Gerald M. Murphy, Jr.
Reg. No. 28,977
P.O. Box 747
Falls Church, VA 22040-0747
703-205-8000

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GMM/CAM/jao
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